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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

Alex Eishoo,	)	No. CV11-8052-PCT-NVW
	)	
Petitioner,	)	<b>ORDER</b>
	)	<b>and</b>
v.	)	<b>CERTIFICATE OF APPEALABILITY</b>
	)	<b>AND IN FORMA PAUPERIS STATUS</b>
	)	
Charles L. Ryan,	)	
	)	
Respondent.	)	
_____	)	

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge James F. Metcalf (Doc. 17) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 27 (citing 28 U.S.C. § 636(b)). Petitioner filed objections on December 28, 2011. (Doc. 18.)

The court has considered the objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). With the clarification stated below, the court agrees with the Magistrate Judge's determinations, accepts the recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner's objections. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate”).

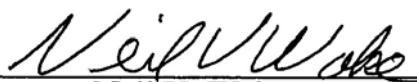
1 Because Petitioner did seek review in the Arizona Supreme Court, the Magistrate  
2 Judge correctly notes that it does not affect the outcome of this case whether he was required  
3 to. However, this court does not presume that Petitioner needed to seek such review but  
4 rather holds that he did not need to in order have federal habeas corpus review of his life  
5 sentence. *Crowell v. Knowles*, 483 F.Supp.2d 925 (D. Ariz. 2007).

6 IT IS THEREFORE ORDERED that Report and Recommendation of the Magistrate  
7 Judge (Doc. 17) is accepted.

8 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying  
9 Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The Clerk  
10 shall terminate this action.

11 Having considered the issuance of a Certificate of Appealability from the order  
12 denying Petitioner's Petition for a Writ of Habeas Corpus, the Court FINDS: Certificate of  
13 Appealability and leave to proceed *in forma pauperis* on appeal are **Denied**. Petitioner has  
14 not made a substantial showing of the denial of a constitutional right on some claims and is  
15 barred by plain procedural bar on other claims and jurists of reason would not find the  
16 procedural ruling debatable.

17 DATED this 29th day of December, 2011.

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22 Neil V. Wake  
23 United States District Judge  
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